



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

PAUL *et al.*

Appl. No. 09/646,679

Filed: February 22, 2001

For: **Signal Transduction Protein
Involved in Plant Dehiscence**

Confirmation No. 2280

Art Unit: 1638

Examiner: Collins, C.E.

Atty. Docket: 0623.0890000/LBB/PAC

Reply To Restriction Requirement

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Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Office Action dated **July 26, 2002**, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I , and the amino acid and nucleic acid species of Figure 1 (SEQ ID NO:14), represented by claims1-8, 10-16, and 25-27. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse of both the restriction requirement and species election requirement.

Applicants respectfully request that all the nucleic acid species of Group I be examined because each species is closely related to the nucleic acid sequence of Figure 1. While Applicants elect the species of Figure 1 (SEQ ID NO:14), with traverse, they assert the right to claim additional species in the event that a generic claim thereto is found to be allowable in accordance with 37 C.F.R. § 1.141(a). Applicants assume that if the Examiner adheres to the election requirement and decides to make it "final" in his next written communication, she will then proceed to conduct a search pursuant to Applicants' election.

If the Examiner fails to find any prior art to the species it is also assumed that she will extend the search further into the genus. If upon further examination the generic claim is found allowable, it is respectfully submitted that the additional species within the genus should also be deemed allowable.

With respect to the Examiner's division of the claims into five groups and the reasons stated therefor, Applicants respectfully traverse. Groups I thru V are related as between polynucleotides, polypeptides, vectors, cells, and processes comprising the nucleic acid and corresponding amino acid of Figure 1. Applicants submit that to search and examine the subject matter of the groups together would not be a serious burden on the Examiner. Applicants submit that the polynucleotides, polypeptides, vectors, cells, and processes comprising the nucleic acid and corresponding amino acid of Figure 1 all share a common feature in that they all comprise the sequences of Figure 1. This commonality lessens the burden on the Examiner as there will be significant overlap in the search and examination of the Groups. The M.P.E.P. § 803, states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Thus, in view of the M.P.E.P. § 803, Applicants respectfully request that the claims of Groups I thru V be searched and examined in the captioned application. Applicants retain the right to petition from the Restriction Requirement under 37 C.F.R. § 1.144.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions

of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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